



SCHIFF'S

The world's most dangerous insurance publicationSM

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INSURANCE OBSERVER

Statutory Data Purged from NAIC Website

An 'Upgrade' claims NAIC

Schiff's has an abiding interest in disclosure; we've spent a good amount of our time arguing for more of it. We've often written about what is hidden—or at least not apparent to most—and have, on many occasions, been denied access to information and data that should be public.

The business of insurance is a matter of public interest and, historically, insurance companies have had to make meaningful disclosures to state regulators. A good amount of what is disclosed is public, and is available through state freedom of information laws.

It often strikes us that insurance regulators are in cahoots with the industry they regulate. Far too much "public" information remains inaccessible to the general public. This is bad public policy, bad for policyholders, and bad for anyone who takes an interest in understanding insurance companies.

This issue contains two articles. The first is by Tim Zawacki, editor of SNL Specialty Finance. He was previously the editor of SNL Insurance Daily, which ran a version of this article. Both newsletters are published by SNL Financial LC, a financial information and research company. SNL has tried, and failed, to obtain insurance-company statutory filings from the NAIC via regular channels (paying for them), as well as through litigation. Several years ago, it lost a Missouri lawsuit and a subsequent appeal, in which it was seeking to compel the NAIC to disseminate statutory information at cost under the Freedom of Information Act.)

The second article, "Insurance Companies' Secret 'Public' Data," which begins on page four, was published in the September 2000 issue of Schiff's in a different version. It is still timely.



The National Association of Insurance Commissioners (NAIC) unveiled its Consumer Information Source on its website in 2001 as a way of helping consumers evaluate insurance companies. The Consumer Information Source, which eventually contained detailed information on recent consumer complaints and lengthy excerpts from every insurance company's annual statutory statement, was a major step forward for the NAIC, which had not traditionally provided the public with easy access to essential statutory insurance data. (The annual statutory statement is the primary source for data necessary to analyze an insurance company's finances, solvency, reserves, investment portfolio, lines of business, directors and officers, corporate structure, etc.)

Now, at a time when the timely and thorough dissemination of public information is a particularly sensitive topic, the NAIC—and more importantly, the state in-

surance commissioners that comprise it—have suddenly decided that less is more.

On June 1, free public access to insurance companies' annual statements on the NAIC's website was abruptly terminated. The detailed pages from annual statements were replaced by one-page "financial profiles" displaying several blurry graphs of financial data that are of little value to anyone. These graphs—which supplanted about 75 pages of statutory data—are "enhancements," asserts a recent NAIC statement, which also calls the petite profiles "more consumer friendly," and claims they "can help [consumers] gauge the financial strength of an insurer."

NAIC spokesman Roger Hoadley said that an internal analysis of consumer needs and usage patterns found that "consumers and lay people don't really use [the] data" that was previously provided free of charge on the Consumer Information Source, and that the new presentation is "easier for

consumers to understand.” The NAIC’s analysis, Hoadley said, showed that commercial entities—law firms and others—got the most use out of the service. “There weren’t a lot of consumers” logging on, he said. Of course, 99.99% of consumers weren’t aware that the data were available, and most conduits for consumers—consumer organizations, activists, journalists, and other interested parties—were also unaware.

Hoadley emphasized that the statutory information is still provided “free of charge” to state regulators—an ironic statement considering the fact that the reason the NAIC has this statutory data in the first place is because state regulators required insurance companies to provide it to the NAIC.

As part of the NAIC’s website “enhancements,” the public can now access all annual-statement data files for what the NAIC calls “a nominal fee.” To gain access, one must go to www.naic.org, click on “Products & Services,” click on “PDF Resources,” click on “Order PDF Files,” click on “Order & Download,” agree to the terms of a shocking and restrictive “License Agreement,” then enter the name of the desired company. The price for an annual statement is hardly “nominal”: it is generally between \$80 and \$130. (If you wanted to review all the companies in AIG’s commercial-lines pool, for example, the cost would be about \$1,000.)

Complete annual statements were not previously available on the NAIC’s website; their addition is an improvement—of sorts. The long excerpts formerly available for free are now gone. Policyholders, consumers, consumers advocates, journalists, industry analysts, creditors, investors, and anyone else who used these free public filings are now out of luck. In fact, they may be more out of luck than they realize. Twenty-eight state insurance departments no longer receive the annual statements for out-of-state insurance companies licensed in their state. Apparently, state insurance departments believed that the NAIC was going to make the statements readily available and therefore didn’t require insurance companies to provide them with the statements in a form that would lend itself to easily accessible free use by the public. As a result, in many states one can no longer go into the insurance department and peruse insurance-company statements in hard-copy. Furthermore, most states don’t have the PDF files either, and therefore cannot make them available to the public. State insurance regulators have allowed, by negligence and default, these essential statements in PDF format to—incredibly—become the property of the NAIC, which is charging big fees for the right to view them. (The New York insurance department, for example, advises insurance companies that providing the NAIC with an electronic filing of their annual statements “will fulfill the electronic filing requirements of New York.”)

Why should consumers, policyholders, or anyone else have to pay \$80 to \$130 to view statutory annual statements that are public documents and should be on state insurance departments’ websites for free?

What right-minded consumer who wants to examine the wherewithal of several auto-insurance companies will pay the NAIC an amount that rivals their annual premium?

According to Joel Ario, a member of the NAIC’s Revenue Consideration Working Group, “providing information and protecting consumers have always been our primary mandates.” Why should the NAIC, a 501(c)(3) charitable, “educational” institution “organized to assist state regulators...in serving the public interest,” gouge the consumers that its members are supposed to protect?

The NAIC—whose members are elected or appointed insurance regulators—is a quasi-public institution, and the commissioners who control it have a legal obligation to the public to insure the accessibility of public information about the insurance companies they regulate.

The NAIC’s members are to blame for standing in the way of the efficient and free dissemination of insurance-company statutory statements. Try to find an insurer’s statutory statements on your state insurance department’s website. You can’t. You may turn up some recent data regarding rate- and policy form-change requests, fines, violations, and assorted other information (as well as the obligatory political spin touting the commissioner’s latest actions to combat fraud and lower prices). But statutory statements—the most essential single filing—are kept from the public eye, despite the fact that there’s no cost to providing this information, and it can be in the possession of every insurance department in PDF format merely by requiring insurance companies to provide it that way.

Arkansas insurance commissioner Mike Pickens is the current president of the NAIC. His insurance department’s

The NAIC is Proud

The following passage is from the NAIC’s website. We have italicized key phrases.

About PDF Files

Annual and quarterly statement filings submitted to the NAIC *and respective state insurance departments are required to include PDF files* that represent an electronic hard copy format of the financial data. The NAIC Insurance Products & Services Division *is proud* to provide these PDF files on-line, *as submitted by the insurance companies...*

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website offers some helpful information, including rate filings by company and an archive of AR166 filings, which includes data on direct premium writings by individual companies in the state. It also provides full statutory filings for managed-care and dental-insurance companies licensed in Arkansas. For all other annual statements, however, the Arkansas website provides a link to the NAIC's Consumer Information Source, where interested parties can purchase annual statements for \$80 to \$130 each—if they agree to the unconscionable license agreement (see “The NAIC’s Restrictive License Agreement” on this page). Pickens’ spokeswoman said plans were “in the works” to publish statutory filings on the department’s website, but she was not aware of any timetable for doing so.

In recent years, most regulatory agencies have made it easier for people to obtain public information. Insurance commissioners and the NAIC have done the opposite. (Imagine the backlash in Congress if the SEC started charging \$130 to download a 10-K that is now available for free on its EDGAR website.)

In an environment where corporate financial disclosures are required to be increasingly thorough and timely, the NAIC’s decision to charge the public for documents that are already public and should rightly be the property of the states is extremely disturbing, to say the least.

State insurance commissioners have long opposed federal insurance regulation, arguing that it would distance the regulators from policyholders. In a June 23 press release, NAIC president Pickens said that state regulation “can become more efficient, more effective and thus more beneficial to consumers.”

Although federal regulation may not be the solution, if it met the standards of the SEC or FDIC, does anyone doubt that a more complete, fair, and free system of financial disclosure would result?

The NAIC—which professes to be dedicated to the public weal and whose members are charged with protecting policyholders’ interests—should not be used as a tool to withhold crucial public documents from the public.

The NAIC, a tax-exempt nonprofit corporation, should not be the insurance commissioners’ secret weapon to restrict access to essential—and public—statutory filings. ■

The NAIC’s Restrictive License Agreement: Contrary to the Public Interest

If you want to download public statutory PDF files from the NAIC’s website, you have to agree to an extremely restrictive license agreement that permits only “non-commercial use.” The license agreement also states, among other things, that the NAIC retains all rights and is the “sole copyright proprietor” of the statutory files.

As a matter of public policy, the NAIC’s claims are absurd. A private organization cannot

copyright *public* documents, nor can it use copyright law to prohibit the dissemination of public documents.

Insurance commissioners are either negligent or acting in bad faith to permit the NAIC to overreach in a manner so contrary to the public interest.

Below are excerpts from the license agreement. We have italicized some of the more outrageous passages.

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Please turn to the next page.

Insurance Companies' Secret 'Public' Data

What's the Industry Afraid Of? by Isaac Schwartz and David Schiff

The following is an edited and annotated version of an article that appeared in our September 2000 issue. We haven't updated the prices or statistics in the article; to the best of our knowledge many haven't changed materially. Some things have changed considerably during the past three years, however. Where appropriate, we've placed italicized comments in brackets to note the changes.

Let's start with the premise that important public documents should be easily available, preferably over the Internet. If we want to narrow this premise, we might say that public documents *already* in electronic form should be available over the Internet.

Although insurance companies are prodigious filers of "public" documents, these documents aren't easily available to the public.

The single most comprehensive insurance-company document is the annual statement, which must be filed with state insurance departments and the National Association of Insurance Commissioners (NAIC). [*Some states no longer require the filing of statutory statements, apparently under the theory that these are being filed with the NAIC.*] Nonetheless, insurance companies' annual statements aren't available on insurance-department websites, insurance-company websites, or the NAIC's website.

No state requires licensed insurers to post their annual statements on the Internet. The cost of such a regulation would be negligible to insurance companies, yet the benefits to the public would be considerable. We recommend that legislators or regulators require insurance companies to post their annual statements on the Internet and make them freely available. Alternatively, state insurance departments could post the statements on their websites.

All 50 states have laws requiring insurance companies to file their annual statements by March 1 each year. [*This is no longer true. Some states do not require licensed companies to file if they have*

filed with the NAIC.] A printed copy of each annual statement and a state-specific supplement must be filed with the insurance department in every state in which an insurance company is licensed. [*Twenty eight states no longer require this.*] Printed and electronic copies (PDF files) must also be filed with the NAIC. (The NAIC is a non-profit corporation whose ostensible purpose is to provide "a forum for the development of uniform policy where uniformity is appropriate." It is not a government agency, and accordingly has no regulatory authority, although it acts as a quasi-regulatory body.)

The annual statement provides a detailed look into an insurance company's

Shakespeare. Prudential Insurance Company's statement, for instance, is two 8" x 14" books, each weighing six pounds and comprising 1,000 pages. In addition, each of Prudential's 24 insurance-company subsidiaries files its own annual statement.

Although an insurance company's annual statement is a "public" document, it isn't easy to come by. You might be able to obtain it from the company, or from the insurance department in states in which the company is licensed, or from the NAIC. Each method leaves a lot to be desired. [*You can now buy this public information in PDF format from the NAIC for \$80 to \$130.*]

We recently conducted an informal survey, calling 17 large insurance companies and asking each for a copy of its annual statement. (We had policies with three of the companies.) In most cases, we identified ourselves as an individual or a policyholder, rather than as a member of the press.

The companies' responses to our requests varied. Some said they didn't know what an annual statement was; others insisted that an insurance company's annual statement and its parent company's annual report were the same thing. Some companies didn't return our calls. Some told us to contact the insurance department. Travelers referred us to the NAIC. A State Farm employee refused to send us the company's annual statement and added, "We're owned by policyholders, not by stocks or anything." Nationwide Mutual asked us for a proposal and agreed to send us its annual statement only if we could demonstrate a legitimate research purpose. When we mentioned that we were a policyholder, Nationwide didn't change its stance. Nine of the 17 insurance companies we called sent us their annual statements.

Twice during the survey we identified ourselves as a reporter. In those instances the insurance companies were particularly responsive, reinforcing our belief that you have a better chance of getting something from an insurance company if you identify yourself as a member of the press rather than as a normal human being. (In

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business. It includes an income statement and balance sheet, data by line of business and by state, schedules of investments, paid and incurred losses, assumed and ceded reinsurance, transactions with affiliates, resisted claims, and much more. The annual statement is the primary source of information necessary to analyze an insurance company.

In some cases, the annual statement is bigger than the collected plays of

the future, when we encounter insurance companies that refuse to give us information, we may try identifying ourself as Special Counsel to the House Commerce Committee.)

Regardless of what response a company gave, if its annual statement had been on the Internet—preferably on a central database, but at the very least on the company’s own website—our efforts, and any on the company’s part, would have been unnecessary.

As we noted earlier, all insurance companies must file an annual statement with the NAIC in electronic format—either on diskette or over the Internet. [PDF files are now used, as well.] The NAIC encourages insurance companies to file via the Internet. It estimates that 1,100 companies—25% of insurers—file their annual statements this way. [Almost all insurance companies file electronically now.] If only the largest companies were to post their annual statements online, the vast majority of policyholders would have easy access to detailed data about their companies. The 10 largest property-casualty and life-health companies represent 43% (by direct premiums written) and 34% (by assets under management) of the market. The 100 largest companies represent 84% and 85%, respectively.

Most states will provide a copy of the annual statement of any insurance company licensed in that state upon request and receipt of a fee. [Many no longer have the statements.] It can take over a month, however, for the statement to arrive.

In our never-ending quest for knowledge, *Schiff’s Insurance Observer* conducted another informal survey, this time researching the cost of obtaining one particular annual statement from 15 different state insurance departments. We chose National Union’s, which is 349 pages. We found that the cost varies significantly from state to state.

In Wisconsin, the Office of the Commissioner of Insurance charges 25¢ per page for the first 50 pages, and 15¢ per page thereafter, making National Union’s annual statement \$57. The Texas Department of Insurance charges a flat rate of 24¢ per page, which comes to \$83.76.

New York charges 25¢ per page, making the price \$87.25. Indiana charges 10¢ per page, plus a \$64 fee for “labor,” bring-

ing the cost to \$103.15. California charges 29¢ per page, plus an \$85 fee, which comes to \$190.46.

The Arizona Insurance Department charges \$1.25 per page, plus postage, bringing the cost to a whopping \$436.25.

Some states copy the documents themselves; others contract out the work. The Massachusetts Division of Insurance refused to copy the annual statement or to provide information about services that would do so. We were advised that if we wanted one we would have to come in and copy it ourself. (At 20¢ per page, it would cost \$69.80.)

We couldn’t believe that the

Massachusetts Division of Insurance, upon receipt of a public-records law request, would actually refuse to send us an annual statement. According to the Massachusetts’ state code, “Every person having custody of any public record...shall furnish one copy thereof upon payment of a reasonable fee” (Chapter 66, Section 10a, General Laws of Massachusetts). A Division of Insurance representative confirmed that we had heard correctly the first time—that the Division would not send out an annual statement, even if one asked for it under the public-records law. We called the office of William F. Galvin, Secretary

Stalking the Elusive Annual Statement: A Survey of Insurance Companies

We called 17 insurance companies and asked for a copy of their annual statement. When speaking with the insurance companies’ repre-

sentatives, we specified that we wanted the *annual statement*, rather than the *annual report*. Nine companies sent us their annual statement.

	Did Company Send Annual Statement?	Comments	Identified Ourselves As
Allstate	Yes	Agreed to send annual statement, but never did. We called a month later; this time they sent it.	Individual
Continental Casualty	Yes		Individual
Chubb	No	Refused to send annual statement.	Individual
Conseco Life	Yes		Individual
GEICO	Yes	Refused to send annual statement. We called several weeks later; this time they sent it.	Individual
Hartford Life	Yes		Individual
MassMutual	Yes		Individual
Metlife	No	Refused to send annual statement. Claimed they only send it to policyholders.	Individual
Mutual of Omaha	No	Refused to send annual statement. We called again, company agreed to send it, but sent <i>annual report</i> instead.	Individual
National Union	Yes	Sent annual statement twice!	Press
Nationwide Mutual	No	Refused to send annual statement.	Policyholder
New York Life	No	Refused to send annual statement.	Individual
Northwestern Mutual	Yes		Individual
Prudential	Yes		Press
State Farm	No	Refused to send annual statement. We called a month later, company agreed to send it, but sent <i>annual report</i> instead.	Individual
SunAmerica	No	Agreed to send annual statement, but sent <i>annual report</i> instead.	Individual
Travelers P&C	No	Agreed to send annual statement twice, but never did.	Individual

of the Commonwealth of Massachusetts, where spokesman Brian McNiff contradicted the insurance department's position, supporting the law as it is written.

The most expensive method of acquiring an insurer's annual statement is through the NAIC. (As mandated by state laws, the NAIC receives the annual statements from all insurers.) The price is \$1.50 per page plus \$10 shipping and handling, bringing National Union's annual statement to \$533.50. [*Now an annual statement costs \$80 to \$130 in PDF format.*] The NAIC, however, offers the only one-stop shopping opportunity for those who want annual statements for all companies. Its property-casualty database costs \$37,000; the life-health database costs \$26,000. The databases include the complete annual statements for every insurance company. (State-specific supplements must be purchased from each state.)

If you don't want to buy an annual statement, most states permit you to schedule an appointment to view pre-requested documents. [*These documents are not always available now.*] In New York (our worldwide headquarters) the process works like this: you send a fax to the insurance department stating exactly what you want to see. You then wait until a representative from the department calls (six business days in our case), schedule an appointment, and sign an "Application for Records" in person.

Although insurance-company filings aren't easily accessible, some filings with government agencies are. The SEC's EDGAR database (www.sec.gov), for example, contains detailed information on the 12,000-15,000 companies that are required to file documents with the SEC. (Insurance companies don't file with the SEC; insurance is regulated by the states.) Anyone with a computer and a modem can peruse detailed filings easily. The documents available on EDGAR include financial statements, registration statements, SEC decisions and releases, public comments on proposed rules, litigation releases, administrative proceedings, and various other reports filed by regulated companies and individuals. All can be viewed, printed, and downloaded for free. There are no restrictions on how the data can be used.

Before EDGAR was created in 1995, getting SEC filings could be as difficult

as getting insurance-company annual statements is today. You could try contacting the issuing company; you could go to one of the SEC's three Public Reference facilities; or you could buy copies of filings from a limited number of suppliers.

Broad disclosure of information is an excellent regulatory policy; it shines light on matters that might otherwise remain hidden, which helps prevent (or at least rein in) abuses. People tend to use information when it's made available. EDGAR went online in September 1995. In January 1997, 61,000,000 files were downloaded from the EDGAR database. By March 1999, monthly usage had increased sevenfold to 427,000,000 files. (Usage is undoubtedly higher today.)

The disclosure policies for bank filings are also way ahead of those of the insurance industry. Banks are required to file quarterly financial statements ("call reports") with the Federal Deposit Insurance Corporation (FDIC). The complete call report for any of the 9,058 institutions that filed with the FDIC for the quarter ending March 31, 2000 is available for free on the FDIC's website (www.fdic.gov). One year's worth of call reports, issued quarterly on CD-ROM, costs \$1,816. (That comes to 20¢ per call report.) The FDIC's website also contains historical data about the banking industry going back to 1934.

Schiff's has a simple view of insurance regulation: it doesn't work as well as it should. Some areas are overregulated ("continuing education" for agents and brokers is one example of a big waste of time). There are plenty of good insurance regulations on the books, but often the insurance departments are too underfunded—and hence too understaffed—to enforce them. There are also foolish regulations, such as the prohibition on rebates, and the gag rule against disclosing risk-based capital information. (The latter is probably unconstitutional.)

Insurance, which is regulated on the state level even though it's an interstate business, is also hurt by the powerful local interests that influence regulation. If insurance were regulated on the federal level, local interests wouldn't have the same impact. (States now compete with each other, enticing carriers by having lax regulation.) Federal regulation would be a

disaster, however, if the worst of state regulation became federal regulation.

It's in the public interest for insurance companies' annual statements (and other public data) to be easily accessible. When insurance-company annual statements are available for free on the Internet, agents, brokers, policyholders, prospective policyholders, journalists, analysts, consumer groups, investors, and other insurance observers will be able to peruse what was once mostly unavailable.

The insurance industry is more than five years [*eight years now*] behind the SEC in disclosure practices. Insurance companies have the capabilities to post their annual statements on the Internet.

It's time for legislators and regulators to require them to do so. ■